

JOEL BARLOW

TO HIS

FELLOW CITIZENS

Of the United States.

LETTER II.*On Certain Political Measures proposed to their
consideration.*

Paris, 20th December, 1799.

Fellow Citizens,

IN my first letter to you I signified an intention of addressing you a second time on political subjects; and of suggesting certain measures which appear to me to be within your power, for securing your own liberty both civil and commercial, and for laying the foundation of a pacific intercourse among all maritime nations, on a plan which may perpetuate itself and become universal. Some of my observations may appear superfluous, as being already familiar to the minds of thinking men; and some of my theories may be thought impracticable because they are not familiar. Could I know beforehand what would really prove superfluous, and what impracticable, I would certainly retrench all that should come under both these descriptions; though it might go to the whole contents of my work; for my object is to aid the exertions of those who wish to do good; and not to embarrass them in the choice of means.

The art of governing a nation is the art of substituting a moral to a physical force. It is only in

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their rudest state, antecedent to government and previous to any experience, that men can be supposed to be impelled or restrained altogether by the action of other men, applied as bodily strength. *The right of the strongest*, among individuals, or in sections of the same society, supposes the absence of that controlling power which is held over them by the society at large; and which, being confided to the hands of the magistrate, constitutes the moral force with which the government usually acts.

As the absolute independence of one man upon another is incompatible with a state of society, personal strength becomes no longer necessary to personal protection; but, on the contrary, it is a general maxim, that individual safety is best secured where individual exertion is least resorted to. Our submitting to any force whatever, whether physical or moral, is the choice of self-interest; resulting in the first case from real defeat, and in the last, either from calculation or from habit. The consciousness of public power gives rise to public opinion; and while experience teaches us to calculate their energy, it brings on the habit of respecting their authority. We thus refrain from mutual injury by an habitual sense of convenience, which resembles the instinct of self-preservation, and is almost as strong in us, as that sensitive horror which prevents our stepping off a precipice. Hence great societies may be moved, millions of persons protected, industry and virtue universally encouraged, idleness and violence completely restrained, without lifting the hand of one man upon another.

These reflections open to our view an immense career of improvement, and explain the theory of the whole progress of society, past, present and to come. Great strides have been taken in this

wonderful career; and a considerable elevation in the ascending scale of improvement is already attained. Whoever will compare the present state of the species with what it was when every thing was decided by bodily strength; when man, after having forced a bit of food from the elements, or robbed it from the savage beast, was still obliged to dispute its possession with his fellow man: whoever looks back to that state of painful privation, precarious toil, and perpetual danger, which saddened the existence of unassociated men, and will then turn to himself, and contemplate what he now enjoys in his protected industry, in the comforts of life assured to himself and family, in the love and good will of his neighbors, and even of distant nations, where virtue and talents are respected, must be convinced of a progress in human affairs, and of a tendency towards perfection. And he will not deny the truth of this general theory, though the period of a few years, taken in any one section of the great circle, may not present to his discernment any perceivable amelioration.

The perfectibility of human society is not a subject of idle speculation, fit only to adorn the pages of a book. It is a truth of the utmost importance in its practical tendency. No maxim is more essential to the legislator of a nation or to the negociator of treaties; and it ought especially to be present in the minds of all men who are called to administer a representative government. If such men have talents and information worthy of their place, and a proper zeal for performing its duties, they will not content themselves with the thoughtless routine of official functions just necessary to escape impeachment; they will not think it enough to avoid crimes themselves, or to punish them in others; but they will call forth the energies of their own genius, and that of their fellow citizens,

to interrogate the native resources of their country, the elements of national happiness; they will second the designs of nature, by accelerating the progress of improvement, by exploring the objects of industry, multiplying the means of subsistence, creating new inducements for peace and harmony with neighbouring states, and removing every occasion for jealousy and war.

An enlightened magistrate will not be satisfied with himself, as having done his duty, unless he can say on quitting the administration, that he leaves the nation better than he found it. Neither can he be said to have served his own country well, unless he has communicated benefits to other countries to which her relations extend. There is no absolute independence of nations any more than of individuals. Men are every where surrounded with wants, and every where incumbered with superfluities; the necessity of asking aid, and the ability of granting it, are mutual, perpetual, and universal; they keep up a constant exchange of commodities, a circulation of the vital fluid of society. Our mutual wants and aids are the elements of our civilization; they have already civilized individuals to a great degree, convinced them of their relative dependence, and taught them the art as well as the convenience of living together in peace. They have made some progress too in civilizing states; and their energy must be infallible in carrying on the work of harmony and happiness, till nations shall stand in the same relation to each other as families do at present in the best regulated community.

The *civilization of States* is the great object to be aimed at in the present age of the progress of human affairs. It is that part of general improvement which has been the least understood, and the least investigated, both as to the means of

bringing it forward, and the consequences that would result from its success. So little has it been studied, so ill have the principles of society been applied to it, even in theoretical discussion, that its possibility is still regarded as a problem. Many persons imagine that states or nations never can be civilized more than they are at present; that among them the savage principle, or *the right of the strongest*, will always be resorted to. And as it is evident that individual improvement being constantly interrupted by the quarrels of nations, cannot be carried much farther, unless those nations will agree to live in peace, they say there is no reason to hope that human society will ever attain a greater degree of perfection than what we see at present. This would evidently be the case, if nations were never to civilize; that is, if a sense of mutual dependence were not to produce the same effects in the great sections of society, called states, as it does in the small sections called families. But why should we despair of these effects? The mutual dependence of men is universal, and it is perpetual; it is not only sure to serve as a permanent source of reciprocal confidence, but as an increasing source; it increases with our factitious wants; it becomes more sensible in proportion to our knowledge of distant countries and of their productions, in proportion to the acquisitions we make in science, to the accumulation of superfluities, and the infinite researches of industry.

A particular *people*, whatever extension we give to the meaning of the word, whether it means a parish or an empire, is every where a physical and moral agent, whose interests are analogous and reciprocal with those of another people of a like description, who inhabit a neighbouring territory. Each of them has a real interest in the prosperity of the other; because prosperity creates

certain relative superfluities, which, being exchanged between the parties, supply their relative wants. This interchange of commodities creates an interchange of affections ; it begins among individuals, and extends in regular progression with their knowledge, to every country and every portion of mankind.

Nature has certainly placed no barrier in this long course of improvement. Whatever barriers are perceived in it are unnatural and accidental ; they will therefore be removed by the development of the human faculties, though by slow degrees. There is no reason why civilization, after having softened the temper of individuals, and harmonized the component parts of a state, as acting among themselves, should forever stop short at that point, and leave the state a savage without, while it is social and peaceful within. For in this case it acts by its physical force abroad, and by its moral force at home ; which supposes on the one side a want of experience, which borders on the rudest condition of savage man ; and on the other it indicates a sense of convenience and the habits of social life.

To make this matter a little plainer, and show that our hopes of progressive civilization are well founded, let us recur to first principles, and explain the causes which seem to impede its progress in certain stages of its career. What do we mean by the word *nation* ? and what is that precise portion of mankind which necessarily forms a body politic, independent and unsocial, benignant within and ferocious without ? It is certain that the necessary limits of a nation are not geographical ; neither are they numerical. In both these respects they are perpetually changing, and are already exceedingly various. One of them, the Chinese, is supposed to contain three hundred mil

lions of inhabitants; another, the Dutch, which does not exceed three millions, is established in the four quarters of the world; its different branches being separated by the widest oceans, and yet united in interest, friendly and social, like a family. The territory now covered by one Federal Republic, the United States, was lately inhabited by at least two hundred different nations at a time, all independent, sovereign, and savage towards each other, as the nations of Europe are this day. France itself, a few centuries ago, was composed of a great number of independent states; which have been united one after another, under the name of provinces, for the purposes of exterior defence and the splendor of the crown: but never till the present revolution, were they completely incorporated in one national body. for the objects of interior commerce, or attached to each other by a similarity of political rights and pecuniary burthens.

It seems then that the tendency of civilization is to diminish the number of nations, and to increase their size and prosperity. But this kind of progression, as applied to independent nations, is limited by the nature of things. The few men to whom the government of a state must be confided, cannot extend their knowledge nor multiply their attentions to such a degree as the affairs of a great people would require. France, in her present limits, presents a mass of population and territory sufficient for at least twenty integral and well constituted states. Her legislative body is representative; it is twice as numerous as any legislative body ought to be; and yet it is not the fifth part so numerous as a proper representation of the people would require. It is incumbered with much more business than it can treat with that attention which the business deserves; and yet not half the affairs which are necessary to the people are ever

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brought up for its deliberation. This republic, for the purposes of interior or local legislation and police, should be organised into about twenty subordinate republics; while, for the purposes of general legislation, exterior relations, defence, commerce, canals, roads, and every common concern, they should remain concentrated in one great union, or community, with a national legislative and executive, restricted in their powers to the simple objects of great national interest; which objects should be defined with the utmost precision in their general constitution (1).

In pursuance of such a system there would be no danger that France would become too extensive or too populous for her internal convenience. And the several nations that are now forming republics in her neighbourhood ought to constitute them on the same plan as those of France, and make part of the general confederation. This system should be adopted, and this confederation joined by every European people, as fast as they become free; though it should extend through this

(1) The terms *federal*, *confederacy*, and others from the same original, have been proscribed in France during the organization of the republic, because their *ordinary* meaning refers to a different state of things from what the condition of France admits; and different from what would be their *appropriate* meaning in this country, were the system adopted which I should recommend; and which appears to me the only one capable of preserving liberty here, and of civilizing Europe. To *federalize*, applied to states, usually signifies to bring towards a union, but not into unity, those that were before distinct and independent. But as France was already one integral state, to *federalize* France would seem to be to divide and dismember that which was before united, which, in the vocabulary of the revolution, was another word for anarchy and intestine war. The federality which I would propose for France and for Europe would not carry with it any such idea. The integrity of the republic, for every purpose of safety, and harmony of parts, would not be altered by it.

quarter of the world. It would present a great union of Republics, which might assume the name of the United States of Europe, and guarantee a perpetual harmony among its members.

This beneficent system of federalizing appears to be the only resource that nature has offered us, at least, in the present state of political science, for avoiding at once the two dangerous extremes of having the republic too great for an equitable administration within, or too small for security without. On this principle, if wisely pursued, no confederated republic will be too great, and no member of it too small; as all subjects of jealousy will be done away by the nature of the association. The new republics of Europe must resort to this principle, if they mean to hold the ground they have gained, in changing their feudal for their representative constitutions. Could we flatter ourselves that they would resort to it at the end of the present war, then we might hope to see the

There has been a great deal of false reasoning on this subject. It is now believed by most of the philosophers in Europe to be a great misfortune to our United States, that they were in several states, and not in one state. This would truly be a misfortune, had we not adopted the federal principle; but now it is one of our greatest advantages.

I am sorry to see that M. de Liancourt, in his late Travels in America, has given countenance to this European sentiment, which I consider a very unfortunate one for the progress of society. His book, which contains a vast quantity of facts and information, will have a tendency to accredit this doctrine in the minds of many persons who had not before adopted it. If that able and laborious enquirer after truth will reflect on the calamities which I shall notice in this letter, as what would be the consequence of a dissolution of our federal system, and will contemplate the principle of that system in its vast extent, as a new means of civilizing states and preventing wars, I hope he will find occasion for changing his opinion.

See vol 7, page 221, of his Travels. Paris edition.

moral force of nations take place of their physical force, the civilization of states keep pace with that of individuals, and their commercial relations established on the principles of peace.

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Infinite credit is due to the conductors of our American Revolution, for the wisdom and energy with which they seized the occasion of establishing our interior and federal governments in the forms which they now possess. The two most consoling principles that political experience has yet brought to light, are those on which we have founded our constitutions—I mean *representative democracy*, and the *federalizing of States*. It is true, that neither of these principles was wholly of our own discovery. But what little experience had been made of either of them by other nations was extremely imperfect, was attended with little success, and had by no means united the opinions even of the most sanguine in their favor. In no instance had the two principles been brought together and wrought into one system; nor had they ever been attempted both by the same people.

Democracy had been disgraced by the pretended experience of some of the states of Greece, though in reality no such thing as democracy ever did exist in Greece or Rome. It has been concluded, and very justly, that *pure democracy*, or the immediate autocracy of the people, is unfit for a great state; it might be added, that it is unfit for the smallest state imaginable, even a little town. But *representative democracy* is applicable to a state of any size, and under any circumstances where men have the use of their reason; though neither this nor any other principle hitherto discovered, is sufficient of *itself* to regulate the concerns of a great people; as no one intenal government is capable of bestowing equal and adequate benefits on every part of an extensive and populous country. But

happily for mankind, the representative principle is a fit companion and a sure guide of that other precious experiment which our country has adopted with such singular propriety, the principle of *confederation*. The union of these two theories, as organised in America, is a vast improvement on the wisdom of former ages; and I cannot but hope that they will be so far cherished by us, and imitated by others, as to change very greatly the face of human society.

It is essential to the interests of America, and would be a compliment to her wisdom, to see her political system, in both its parts, adopted by other countries. It would be the surest pledge of peace from abroad, and the strongest guarantee against a relapse of principle at home. But for ourselves, there is one maxim which ought not to be forgotten: that these two pillars of the edifice, the representative principle and the federal principle, should never be separated. Though one of them alone may promise liberty, and the other of them alone may promise peace, yet we cannot be confident that either liberty or peace will become extensive or permanent, unless these well assorted principles are united in one system, and kept inseparable in their practice.

Let us convince ourselves of this truth by examining the effect of each principle apart, as operating without the aid of the other. First; the federalizing of states, whose governments were monarchical or aristocratical, has not obtained any brilliant success, either in ancient or modern times. The Amphictyonic Council of the Greeks was a body of so little consequence in a political view, that it would not be worth noticing in this place were it not for a certain practice among writers on governments, of seeking models for every thing in the annals of that pompous people. The

Amphictyons had no regular constituted authority, except in matters of religion. They never prevented a foreign war offensive or defensive. It would be difficult indeed to say they never prevented a domestic war among the states, because such a thing might be done with so little rumour as to escape the notice of history; but it is certain that they excited several domestic wars, and those of the most cruel and exterminating kind, being wars of religion. On the whole, it appears that this congressional institution, notwithstanding its solemn pretensions of confederating the States of Greece, was more detrimental than beneficial to the people. Whenever their common country was invaded, whether by Persians, Macedonians or Romans, about half the states in every instance joined the invading enemy. The power of the Amphictyons was effectual only in directing, on certain occasions, the united vengeance of several powerful states against a weaker one, for having slighted the authority of the priests, for having put into cultivation certain lands which religion had devoted to sterility, or neglected some frivolous or barbarous duty enjoined by an insidious oracle.

As to the Corinthian, the Peloponesian and the Arcanian leagues, they were only alliances or coalitions against an enemy, temporary in their nature, and not extensive in their effects. The other examples from Greece which are sometimes cited as confederations, such as the Arcadian, the Beotian, the Eolian and the primitive Achaian, present something more regular and permanent in their constitutions. But they were each of them too diminutive to merit the name of an association of states. The primitive Achaian, for instance, was the union of twelve small boroughs into one small republic. It may be considered rather as a model of representative democracy in a single state,

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than as a federal system; and in this view perhaps it approaches nearer to modern republican representation, than any other example left us by the ancients.

The subsequent, or great Achaian league was indeed an association of states, whose object was laudable and well defined. It suffered less from a defect in its federal principle than from the corruption of its members. It retrieved in a partial degree the liberties of Greece from the rapacity of Alexander's successors, preserved them with considerable energy for more than a hundred years, and finally yielded them with some appearance of dignity to the irresistible fortunes of Rome.

The Lycian league was not unlike the latter Achaian, either in its object or its destiny. It caused itself to be respected by the Romans as long as the Romans retained any respect for themselves; but no institution could stand before the corruptions of their monstrous and debilitated empire.

The Etruscans, and some other early tribes in Italy, had likewise their several confederations. But their constitutions are so little known, and they refer to a state of society so different from ours, that for every purpose, except for displaying an empty erudition, their investigation would be as useless to us as that of some of the native tribes of North America, the Six Nations or the Tlascalans. Examples of these imperfect associations are not rare. It is probable that the history of the human race would present them in every corner of the earth, if its affecting and monotonous page could be completely laid open before us. They shew the feeble efforts of inexperienced societies to defend themselves against the effects of each other's inexperience.

The German Empire, the Swiss Cantons, and the United Netherlands present us three great ex-

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amplexes of the confederation of states in modern Europe; the former still subsisting, the two latter but lately overturned. It requires but little observation to discern the constitutional defects in the Germanic body: it is a confederation of princes, and not of nations. With this radical vice in its organization, it is impossible that its object should be peace, or its policy justice; and without pursuing these, no society of men can be tolerably happy, no union of states can be sincere, no portion of the earth can greatly increase its population, or present that progressive augmentation of benefits which nature has placed within our reach, and science is teaching us how to realise. National happiness is never the object of a state, where the interest of those who govern is in any measure different from that of the people. The pursuits, therefore, of the Germanic Princes are mutual encroachment instead of mutual assistance; the object of their union is war, and not peace; their constitution is military, and not commercial. Hence all the compulsory provisions that are made in it have reference to warlike preparations, contingencies of men and money, for recruiting armies and discouraging industry. There is no public provision made for the encouragement of useful arts and manufactures, no power lodged in the federal Diet for establishing a general system of canal or river navigation, for equalizing the duties on the objects of commerce, allowing a free exchange of the produce of labor, even in the most necessary articles of life.

There is no inhibition which prevents any prince or state from beginning a war without the consent of the Diet, from building forts and raising armies with the manifest intention to invade each other's territory, from entering into foreign alliances and other treaties, for involving the empire in destruc-

tive wars. But, on the contrary, every facility and every temptation are held out for intestine wars among the states, as if no federal tie subsisted between them; while their interior commerce from state to state is shackled with all those restrictions which hostile jealousy has invented among the most independent and ferocious monarchies of Europe.

Many other defects might be easily pointed out in the Germanic constitution. We may find some of them in the books that treat on this subject; but where is the advantage of searching them? The fundamental defect, which is the source of all the rest, is not noticed in any book, but stares us in the face on the first reflection: a confederation of Princes stands no chance of being beneficial to the people. You might as well expect to render service to the sheep by confederating the wolves that should be set to watch them.

The Swiss Cantons and the United Netherlands have been more fortunate in their federal systems. Considering the feebleness of the means with which they began, the quantity of force against which they rose, and the weight of effort that has been frequently made to destroy them, they exhibit wonderful monuments of the efficacy of organized liberty in political bodies. Though the Swiss Cantons had scarcely the appearance of a federal constitution, their acts of union being little more than treaties of alliance, which external danger generally kept them from violating; and though that of the United Netherlands was very imperfect, yet these were not the radical defects which brought on the decline and overthrow of either of their celebrated systems. The original defect, in each case, lay in the constitutions of the particular states of which the union was composed. The representative principle was originally

unknown, and never understood in either country. Without this principle, the people cannot exercise their rights, unless it be in the form of mobs: the necessary consequence of which is to throw the active power into the hands of a few, where it soon becomes habitual and hereditary, no longer the property of the nation, and no longer exercised for her benefit. It would be as impracticable to establish a rational system of federal government among aristocratical states, as among principalities or monarchies. For the principle is the same in each; the supposed interest of the people.

The plan for a perpetual peace, projected two centuries ago by Henry IV. new modeled and proposed with great zeal in the early part of the present century by the abbe de St. Pierre, and afterwards embellished with the nervous eloquence of J. J. Rousseau, must have been a fruitless experiment, if attempted on the model of either of its illustrious patrons. The project was to league all the Christian Powers of Europe in one confederation, guaranteeing to each its own form of government, and its limits as then existing; to establish a permanent Diet, composed of delegates from every state, with power to settle all disputes that might arise between the several states; to prevent any of them from raising armies on their own account, building forts or fleets to act against each other, or forming any foreign alliances; but all exterior relations and all measures of defence should be directed and managed by the general Diet, in the name of the Confederacy.

It is possible that by the means which Henry had in his power, this sublime conception might have been realised so far as to organize the constitution and begin the operation, had not an untimely death prevented the experiment by depriving the

world of its author. Rousseau has detailed the reasons why this project could not be carried into effect at any period since the days of Henry, nor by any influence short of that which he possessed among the powers of Europe. But the same writer supposes that were it once adopted, its benefits would be so conspicuous and universal as to secure its continuance. I question the probability of this supposition. What could secure the members of this Diet from corruption? There is but one effectual mode of securing them; and that is to make it the interest of none of the parties to corrupt them; no other principle can be relied upon with safety. In an association of this magnitude, it is not enough that it should be the interest of each of the associated states to preserve the constitution; but it should be the interest of those who govern the associated states. Now as long as these were governed by hereditary princes, who had an interest in extending their private dominions to the detriment of each other, it must be expected that they would seek to encroach as much as possible, and violate the constitution by every means in their power. And as the federal government, if well administered, would prevent their doing it by force, the more effectual way would be to corrupt the members of the Diet, so as to palsy the operation of the constitution, suspend its protection of the weaker associates, and re-establish the *right of the strongest*, as in the present state of Europe. This is a favorite state of society for princes; a state of hazard, inviting them to plunder, and so far exposing them to be plundered in their turn, as to afford a constant pretext for armies and navies. It is what they call independence; and notwithstanding it leads them every day to commit crimes for which they would hang a hun-

shed subjects, they will not agree to be restrained by law; though the same law would restrain their neighbours who prey upon themselves; though it would greatly increase their revenues, by increasing the population and the quantity of productive labour within their dominions; and though it would greatly lessen their expences, by reducing to almost nothing their constant preparations for defence.

But if the powers of government in every associated state were in the hands of the people, in whom the right resides, and if these powers were exercised in all cases by an equal representation, freely chosen and frequently renewed, then would there be no person interested in extending the limits of any one state to the detriment of another; then would no person attempt to corrupt the Diet to violate the compact, and throw Europe back into a state of national animosity and princely plunder; then the farmer would be on his own farm, and the artisan in his own shop; and whether his habitation were included in the limits of Prussia or of Austria, whether it were called protestant or catholic, would not be to him a matter of interest; he would find equal protection in each district, by laws made and obeyed by his own delegates.

A Confederation of States, whose interior governments should be founded on these principles, might indeed extend through Europe with the project of Henry IV, and be as lasting as was imagined by the fervid benevolence of St Pierre; but it would not be a confederation of hereditary protectors of nations.

Hence we may conclude, so far as the experience of mankind will enable us to judge from practice, and so far as the nature of the case will strengthen our conclusions from theory, that no

considerable advantage ought to be expected from the federal principle among states, unless the states themselves are constituted on the representative principle; so as that the system in both its branches may be the work of the people, carried on for their benefit, by persons of their own choice, and under their own control.

Second; In the other branch of the present examination, to discover the effect of the representative principle, without the aid of federalizing, we shall receive but little light from the experience of any nation. There is no example, within my knowledge, of a complete representative government of an elder date than those of our own country; and those were effectually federalized as soon as they were formed, and before. It is true that the government of Connecticut and Rhode-Island were as perfectly representative before the American revolution as they are now; and some other of their sister colonies had been at some periods nearly so. But their common tie with the monarchy of Great Britain, answered some of the purposes of a federal union. They were not independent, and no state on earth, in my opinion, ought to be called independent. For as no state can really be so in fact, it is only a source of false ideas and of endless calamities to have them so in form.

France, and the other new republics in Europe, cannot be said as yet to have had much experience of the representative principle. Their practical governments are hitherto revolutionary; and must of necessity continue so till the end of the revolutionary war which has been excited to destroy them.

There being therefore no example of real representative government, except in the American States, and these being united by strong federal

ties, we are driven to theoretical inquiry alone for the opinion we ought to form of the operation of the republican principle among individual and unconfederated states.

We should begin by observing that such states must necessarily be small, for the reasons already noticed; otherwise the representative energy cannot be well preserved, nor the benefits of equal government be experienced by every portion of the people. If the states are small, their territories contiguous, and their governments independent, they will necessarily be rivals; there will probably be mutual restrictions on their trade, for the sake of revenue; there will be forts and armies and generals; it will not be long before some citizens in each state will conceive themselves to have a private property in their respective governments, and an interest in extending the dominion of their own state, to the detriment of the others; they will have sycophants to flatter this fatal ambition, places and patronage at their disposal, and a number of new departments and their appendages to be created at the moment of a rupture with their neighbours.

The first cannon fired between two rival states in this situation, may be taken as the signal of the departure of liberty from them both. The power in each state becomes military; military power is necessarily concentrated in a few hands, where it soon becomes hereditary. The rest of the history of such states might as well be written before they exist, as after they are extinguished. But it would not be worth writing at all; it would be but the repetition of some indifferent chapter in the great history of despotism and war.

Since then, my fellow citizens, it is to you that we must turn for the best practical lessons on the subject of government, in both the principles

on which your system is founded, you will at least acknowlege the importance of maintaining those principles. And I hope at the same time that you will not be averse to making such improvements in your situation as the nature of your system will admit, without changing its theory. Your objects are: 1, to secure the continuance of interior liberty, in the United States; and 2, to take such an attitude in vindicating your commercial liberty, as to gain the confidence of other Powers, and lay the foundation of perpetual peace, at least between you and them, possibly between all commercial nations. These two objects are so essential to your own prosperity, and at the same time so accordant with that desire which is natural to uncorrupted minds, of extending benefits to other sections of the human race, that you will indulge me in a few observations upon each.

I.

*The means of securing interior liberty in the
United States.*

I will not go into an examination of the state Constitutions, nor propose to your consideration those amendments of which some of them appear susceptible; because it is at all times a delicate subject; and to give it a candid discussion requires a moment of less fermentation than the present. It is not a work of immediate necessity; though some parts of it should not be neglected till your population is very greatly increased, and till certain habits founded on constitutional defects become too inveterate to be easily removed. But there are other objects of a more general concern,

which may be noticed with less danger of giving offence; and which doubtless demand an early attention.

The face of things in North America is changing so exceedingly fast, that every political step you take ought to have a special reference to the time to come, as well as to the time present. No government should have so little to do with temporizing; and so much to do with system, as that of the United States. The science of political perspective ought to be rendered familiar to those who aspire to be your guides; so that the great events which are sure to happen, may be classed and measured, and their places assigned them, before they come into being. Without this precaution, it would be impossible to go right; with it, the task of governing would be so easy that honest men would scarcely go wrong. The approaching changes in our situation should be distinctly noticed, and their consequences profoundly meditated. 1, Our nation is young in respect to the date of its independence, the habits of thinking incident to this condition, and the trial we have had of our political institutions. 2, One half of the territory within our limits remains unoccupied, on the other half the population is small, compared with what it is capable of becoming; and the increase must be rapid. 3, Extensive and flourishing colonies are springing up beyond our frontiers in every direction. These are of various extraction, principally Spanish, French and English; all of them, from the impulse given them by their mother countries, are doubtless unfriendly to us; but all of them, from real interest, similarity of circumstances, and future inevitable events, are capable of becoming our natural and best friends, and, with proper management, our fellow citizens. Not many years can pass before

these colonies will shake off their foreign dependence, and burst the ties which now bind them to European governments.

These are some of the principal circumstances to be consulted in supporting the interior of our system. The events are easy to foresee; they must be provided for; and it depends on you from this moment to say whether they shall redound to our advantage, and to the extensive benefit of ages and nations; or whether they shall bring destruction to our hopes, and overturn the fairest fabric of human policy that the world has hitherto seen,

I will waste no arguments in proving that it is essential to the interest of the United States to continue their federal union, whatever may be the increase of population and the addition of new states within our present limits. Taking this to be a position which will not be denied by those for whom I write, I will content myself with noticing the means by which alone the union can be preserved.

First: The United States, to maintain their federal system entire, through all their limits, and under approaching circumstances, *must be out of debt*, or nearly so. The annual call for money, for federal purposes, must be moderate. Otherwise the people in different districts, who see with what simplicity and economy their own state governments are carried on, and who know that much the greater part of their real interests are regulated there, will begin to calculate, and enquire whether their part of the expences of the confederation does not exceed its benefits. Such enquiries indeed would be of a nature not to be pursued with the utmost fairness: nor could we expect calculations of this sort to be conducted with all that foresight which the subject would require. There is no doubt but prudence would

dictate to any district of the Union to submit to very great expences, rather than withdraw from it, and become a rival nation. But experience teaches us that in political resentments we are not to expect much prudence or true policy.

To keep the frontier districts attached to the Union, we must rely more on their passions and their sense of present convenience, than on their prudence and their calculation of future convenience. We should not forget that the United States are to be held together by interest, not by force. And the federal government should conduct its operations in such a manner as that this interest shall always be felt by every state, and act upon the inhabitants, as a steady principle of union ; since there is no other on which we can depend.

In the old governments of Europe the people of different districts are held together under one head by the co-operation of several causes which do not exist with us. A military force, or a standing army, acts as a constant pressure on them, both by the terror it excites, and the great number of places it offers to the nobility and the ambitious of every class. To this is added a superstitious veneration for a reigning family, who never fail to be painted to their subjects as the centre of every virtue and the particular favorites of heaven ; so that withdrawing from their government is considered as rebellion against God. Then comes the machinery of a state religion, which is kept in continual play by a host of artful men, who teach that every thing beyond their own dominion is heretical and reprobate. And farther to discourage every wish for a change, the people are so hemmed in by nations as miserable as themselves, that they perceive that great taxes and other vexations are not to be avoided by shifting their allegiance, and looking to the

right, instead of the left, for the centre of their government.

We shall deceive ourselves exceedingly if we suppose that any of these causes are to operate in the western and southern districts of the United States. Our system of policy does not admit of standing armies; and if it did, we could not support one sufficiently strong to restrain a whole people who have arms in their hands, who should think themselves oppressed, and determine to be free. No superstition, that is likely to be lasting or extensive, is yet established among us, in favor of any one man or family; for notwithstanding the pains that are taken to deify some of our citizens, and to propagate an opinion that they can do no wrong, these efforts are ridiculed by the mass of people whom they were intended to deceive. As to religion, the sects are so numerous in America, and the people are so convinced, that whatever concern they may have in it must be personal and not political, that the general government cannot hope to establish a uniformity of worship, and therefore can never make it a powerful engine of state. And with regard to the last article above mentioned, that of being surrounded by nations habituated to oppression, this is totally wanting in our country. If therefore the federal government becomes oppressive to the people of the frontier states, or only appears to be so, there is no other example of oppression in their neighbourhood with which to compare it; their reasoning in this case will be very short: "Nothing binds us to this boasted Union; it is at least an inconvenience to us; let us shake it off, and be our own Union; or, if we are not strong enough for that, let us form another with the Spanish or English colony in our neighbourhood, where every encouragement is held out

to us; where, having no national debt, we shall have no taxes, but for the current expences of a government, which, being of our own formation, shall be kept within the bounds of economy."

These good people will not perhaps reflect on the immense inconveniencies which would afterwards arise both to them and us from our new condition of two or more rival nations, bordering on each other, having each an extensive line of forts and garrisons, standing armies and frequent wars to maintain; which would inevitably plunge us all into the gulf of monarchy, nobility, and priesthood; from which we never could arise, or regain the ground we should have lost.

Should this letter reach the inhabitants of the frontier states and districts of our common country, I beg, on the one hand, that they will not be offended at the apprehension that I express, that a disposition may one day arise in them to dissolve their union with their sister states; and they will pardon my fears if no such event is likely to occur. But, on the other hand, if these apprehensions are well founded, I entreat them to listen for a moment to the voice of the most disinterested friend that will probably ever discuss the subject.

Let them look at the condition of Europe, and contemplate its history through the bloody series of modern ages. It is divided into rival states, that call themselves *independent*; which is another word for the ferocity of savage life, and a licence for organized violence. These states are separated from each other by triple or quadruple ranges of fortified towns, whose inhabitants, from age to age subjected to military law, are shut up at night like cattle, and pursue their labours by day under the shade of the bayonet, within the view of an insolent soldiery, whose ranks are supplied by draining the country of its best young men, and whose

pay and provisions are drawn from the hard industry of those who remain behind.

The commerce of these independent nations is so harrassed with duties and imposts, in passing through different dominions, that very little of it can be carried on. A barrel of sugar, brought into the middle of Germany, must have paid at least six or eight different taxes. And when the consumer has any produce of his own labor to send abroad, it is loaded with as many more burthens, before it can arrive at market.

Such is their condition in their best times, the times of peace; but in the years of war, which are about half the years of every generation of these unhappy men, immense armies are set in motion; whole countries are overspread and exhausted by the marches of successive hordes of friends and enemies, confederates and allies; whose undistinguished voracity excites equal terror among the inhabitants. Sieges, battles, hospitals, prisons, pestilence and famine, sweep off half the population of each country, and force their princes at last to a temporary cessation of butchery, which they call peace. Perhaps the halves of some provinces are severed from one dominion, and annexed to another; and this they call conquest. This occasions a new line of frontier, and new ranges of fortifications to be run through an interior country, cutting up the cultivated fields, and forcing the owners (who cannot fly from the devastation) to work at the new trenches and ramparts, to prepare this transfiguration of nature, and be ready for another war.

This picture is not overcharged; and if it should be thought inapplicable to the present subject, because modern Europe is governed by hereditary princes, and the projected independent governments of America expect to be republics, let us look back

for another example to the states of ancient Greece. Those states were most of them called republics, and were independent of each other; and among the five or six hundred years of their political existence, from the commencement of history till they became a Roman province, I believe there was not a single year when they can be said to have been completely at peace among themselves. No; the evil is not altogether in the nature of the interior government; though this in itself, when bad, is a great source of calamities; a still greater source, if possible, is in the independence and rivalry of neighbouring governments. What a long and uninterrupted series of wars between England and Scotland was arrested by the union of the two crowns, and afterwards of the two kingdoms!— And how much more extensive and more lamentable would have been the scenes of slaughter among the American States, had we left them independent of each other, after effecting their independence from Great Britain.

Since, then, we have found the means of avoiding these disasters, --- since we have established a union of interests and of states, which may bid defiance to every possible enemy but ourselves, shall we, not have the wisdom to preserve this union? Shall we, on the one side, indulge in the prodigality of increasing our debt, and in a proud indifference to the opinions of an irritable and powerful portion of the nation; and on the other side, will that portion run wild with an untimely resentment, and not consent to a small and temporary sacrifice, rather than plunge themselves and their brethren, with all their intermingled posterity, into calamities without measure and without end;—calamities which are inseparable from a disjunction of the states, and the frightful experiment of independent and rival governments, whose tempers will have been already embittered by the act of separation?

It is doubtless to be lamented that the debt of the United States has risen to such a formidable size; and that there still seems to be a disposition to increase it, from pretences so frivolous as to be clearly seen through by those whom they were intended to blind and mislead. It is impossible that the smallest portion of the American people has been made to believe that there was any conceivable danger of an invasion from France; and the resentment occasioned by the creation of that part of the debt which has been raised on this pretence must therefore be sharpened by the impudent attempt to impose on their understanding.

That great and wanton augmentation of the federal debt in the year 1790, which arose from the assumption of those of the individual states, was founded on a very singular argument: it was said that this measure would have a tendency to cement the federal union. Why was it not foreseen that precisely the contrary must be the effect. While the state remained the debtor and its own citizens the creditor, neither of them could find relief by withdrawing from the union; the citizens in fact were all debtors, and as many of them as chose to be were creditors. But now they would both find relief by withdrawing; for by that act all the citizens of such a state would cease to be debtors, while the creditors would remain the same. These would have only to sell their stock and receive payment; and then that state would have nothing more to do with the burthens of the late war, nor with the subsequent accumulation of the national debt. If there can be an argument proper to engage a state or district to withdraw from the union, this is certainly one.

Perhaps I mistake the present temper of the American people; but it appears to me that the greatest risk we run of a dismemberment of the empire,

arises from the magnitude of the debt. There are many other reasons why its progress ought to be arrested where it is, and the capital diminished as fast as possible; but the greatest of all reasons is the preservation of the federal system, on which our liberty and happiness most essentially depend. This argument, I apprehend, has not been sufficiently attended to America.

Besides the magnitude of our debt, the manner of funding it has had a pernicious influence on the policy of our government with foreign powers. The payment of the interest was made to depend in a great measure on the duties to be levied on imported merchandize, which were by law appropriated for fifteen years to this object. This made every stock-holder a partizan of our commercial connections with that country whose commerce with us was supposed principally to secure this revenue; however injurious those connections might become to the general interest of the United States. It is greatly owing to this unfortunate measure that our commerce has suffered so much during the present war from English and French depredations. For no one will deny that the latter were occasioned by our tame submission to the former.

Second: As the government belongs to the people, and not the people to the government, it is proper that the latter should be as accommodating as possible with regard to the place of its residence. The existing law, by which the Congress has pledged itself to remove to the Federal City at a certain time, ought to suffer no delay in its execution, after that time arrives. If that law had carried the Federal City eighty or a hundred miles farther up the Potowmac, it would have been still more central, and doubtless would have had a greater effect in preserving the union entire.

The article is trifling in itself; but every thing in this world goes by appearance. It would have been a mark of attention, a complaisance, an accommodation to our western brethren, that would have been worth millions in fixing their affections. It is doubtless too late to think of changing the resolution already taken by the legislature; but it would doubtless be impolitic to admit of a new delay, as many persons apprehend, in carrying it into effect.

Third: The opening of roads, and the improvement of water communication between the central and the frontier states, should be objects of constant solicitude, not only to the state legislatures and to Congress, as far as may be in their power, but to patriotic individuals and companies, wherever they can reconcile private interest with so great a public benefit.

A facility of intercourse for the objects of commerce, travelling and the transportation of letters, would have a powerful effect in assimilating our manners, and inspiring that confidence and friendship so necessary to the political union of men who feel themselves able at all times to change their connexions at pleasure.

A system of small canals, as projected by one of our most estimable citizens, on a plan so extensive as to take place generally of public roads in the most frequented routes, may one day be presented to the consideration of the federal government. This is not the moment to enter into a developement of the project, either in its political or fiscal operation. I will only observe that in both these views it would greatly serve to harmonise the interests of the states, and to strengthen their present union.

Fourth: A universal attention to the education of youth, and a republican direction given to the elementary articles of public instruction, are among

the most essential means of preserving liberty in any country where it is once enjoyed; especially in the United States. The representative system must necessarily degenerate, and become an instrument of tyranny, rather than of liberty, where there is an extraordinary disparity of information between the generality of the citizens and those who aspire to be their chiefs. And as to the federal ties between the different states, how shall they be maintained, but by extending the views and enlightening the minds of those whose votes are frequently to be consulted, and whose actions are always irresistible by their numbers, and the direction which they take.

Ignorance is every where such an infallible instrument of despotism, that there can be no hope of continuing even our present *forms* of government, either federal or state, much less that spirit of equal liberty and justice on which they were founded, but by diffusing universally among the people that portion of instruction which is sufficient to teach them their duties and their rights.

We must not content ourselves with saying, that education is an individual interest and a family concern; and that every parent, from a desire to promote the welfare of his children, will procure them the necessary instruction, as far as may be in his power, which will be enough for their station. These assertions are not true; parents are sometimes too ignorant, and often too inattentive or avaricious, to be trusted with the sole direction of their children; unless stimulated by some other motive than a natural sense of duty to them. Neither is it merely a family concern; it is a civil and even a political concern. The legislator and the magistrate neglect an essential part of their duty, if they do not provide the means and carry them into effect, for giving instruction to every member of the state.

This may be done with very little expence, and with much less trouble than is generally imagined. The subject appears to me to be too much neglected in the United States in general, considering that the preservation of liberty depends in a great measure upon it.

Fifth : What shall we say of those gigantic colonies that are forming on our frontiers, to the westward of the Mississippi, and to the northward of the lakes? These are germs of empire, which offer an immense field of meditation to the American politician. How soon, and by what combination of events, are they to become independent states?—When that day arrives, are they to be our rivals, and consequently our enemies, after the example of the states of Europe? Or can the way be prepared and they be persuaded to adopt our principles, to form with us a great union of political interests, and make of the whole but one confederated empire? These questions hurry the mind into an awful train of thought, which is difficult to methodize and delicate to communicate. Yet no branch of the enquiry is useless; since it contemplates an event the most important that can probably affect our Constitution; and one which a prudent conduct on our part may modify in a very considerable degree. I do not mean that it will be our duty to interfere in their present concerns, or to take any part in any dispute that may happen between them and their present governments, with a view to hasten or retard the moment of their separation. But it is essential, that we should so conduct our own affairs as to set such an example of rational liberty and public happiness, as they cannot fail to admire, and must therefore wish to partake.

Our frontier states, which border on theirs, must necessarily entertain an intimate and extensive in-

tercourse with them. Reciprocal migrations and intermarriages will be numerous between them; their commerce will be active; their manners, language and modes of education will be the same on both sides. The probability is, that if we do not induce them to join themselves to us, they will induce some of our extensive districts to quit us, and join with them.

But if at that day, the United States should be clear of debt, and should exhibit the singular phenomenon of a wise, impartial, and energetic government, reserving so much power to individual states as shall enable the people to regulate the great mass of their most interesting concerns at home, where they are best understood, and yet continuing a sufficient force in the federal head to insure at all times the means of giving protection and obtaining respect,---there can be no insuperable objection, and there may be a powerful inducement, for those new nations, to form their state governments after the model of ours, and to join our confederation.

I am aware of the inconvenience that might arise from the magnitude of this projected empire; as the colonies in question are spreading over a surface at least equal to that of the present United States. The objection is weighty, but my answer is at hand; by encountering this inconvenience, which is new, and therefore formidable in appearance, we avoid those that are infinitely more serious; though from being familiar and thought unavoidable they are less attended to. There is no political inconvenience so great as the neighbourhood of independent and rival nations. Their commercial restrictions, their military preparations, their fortified frontiers, their interfering jurisdictions, their whimsical and undefinable points of honor, give so many occasions of dispute in the minds of passionate or ambitious men, that such nations, if not always at

war, must be always in such a warlike posture as to present a perpetual image of the savage state, degrade the morals and devour the substance of the people.

Besides, I apprehend, that if we well consider the nature of a federal government, we shall have less reason to dread the extension of its limits. The objects of its legislation are few, according to our present system; and I have no doubt but this might still be simplified, without risk of lessening its energy. If its simplification should be found practicable, this circumstance may add to the inducements that our neighbours may one day have to join us in confederation, and may diminish on our side the inconvenience which many will apprehend from the first view of the case.

Though the Achaian and the Lycian confederacies were the most perfect that history has transmitted to us, we ought to recollect, that the former was overturned by refusing to admit the state of Sparta as a member; and the destruction of the latter was brought on by its excluding sixty cities which desired to join it.

The interest we shall have in inducing new nations to join our union, instead of being our rivals, is a strong argument, in addition to many others, for preserving at least as much power to our individual states as they now possess, and for not suffering any encroachment from the federal government. It is convenient, as well as inviting, for every section of a free people to regulate as many of their own affairs at home as is consistent with the interest of the whole. And when their federalizing with us depends on their own choice, they will be more likely to do it if the requisite sacrifice of power should be small, than if it should be great.

I hope none will infer from the observations in this article, that I am an advocate for conquest, in

any case whatever; and still less that I would extend the limits of a dominion by colonies and foreign possessions. Nothing is more destructive to liberty, both at home and abroad, than this sort of policy. There is no doubt (all other circumstances being equal) but small dominions are preferable to large ones. It is only to avoid the greater evils of the independence and rivalry of states, that I would consent to an extension of limits. And this would be scarcely tolerable, but on the federal plan; which I regard as one of the most useful and most consoling experiments to be found in the history of government. There is no knowing yet to what extent it may be carried.

Sixth: The more I reflect on the nature of political liberty, the more I am convinced that a military establishment of any magnitude is extremely incompatible with it. The most effectual way of preventing this, as well the surest mode of providing for the defence of the country, is by a universal attention to arming and disciplining the militia. When every citizen is a soldier, and every soldier will be a citizen, military exercise, to a certain degree, should be considered as a part of education; and though a subordinate part, it should not be neglected.

But it is happy for us that military life, as an exclusive object, is not yet become a profession in the United States. There are very few evils of a political kind that would be more subversive of their liberty. Ambition, which has been so destructive to national happiness, could scarcely be taken in a bad sense, but for its usual association with military fame. And if excellence in warlike achievements, in themselves considered, without regard to the cause, should once become an object of pursuit with the young men of America, it would soon be found impossible to keep us out of unne-

cessary wars, and all the miseries and degradations of character that they entail. The epidemic would seize, as usual, the richest and most influential families; the rage would become fashionable; it would be made an object of real profit, as well as of supposed honor. And how many votes, in the freest governments in Europe, have been given for war, from no other motive than that of providing places for sons, brothers, cousins, or the voters themselves?

War has hitherto been considered in America, I believe by every class of people, as a calamity to be avoided, in all possible cases by all rational means. It probably may be avoided, as long as we are out of the neighbourhood of independent nations; and as long as the ambition of our leading men shall be directed to the true interests of society.

II.

The means of vindicating our commercial liberty.

I noticed to you in my former letter that the American commerce, so far from requiring the protection of a navy, was of a nature capable of protecting itself and us against the aggressions of all those powers with which it is principally carried on. This idea requires some developement, which I will endeavour to give it in this place; and I do not despair of establishing the principle so clearly, that it may serve as the basis of a system which you will mature in your cooler moments, and carry into practice on all future occasions. When present passions shall have subsided, and an interval of peace shall be restored to Europe, there will be a proper occasion for you to come to a definition and declaration of the rights of neutral commerce; and

at the same time to declare the manner in which you will defend those rights.

With regard to what are the rights of neutral commerce, and what in my opinion ought to be so declared and maintained by you, I cannot express my ideas with more precision than I have done in a memoir and the project of a declaration written at the desire of one of the members of the French government a few days ago, at the moment when they were framing their new constitution. Our intention then was to cause such a declaration to be prefixed to the constitution. But that work was to be hurried through with so much precipitancy that its authors concluded to adjourn to a future day, as a subject of consideration to the legislative body, the declaratory act first proposed to be consecrated in a more solemn form. I will subjoin a copy of the memoir and proposed declaration as an Appendix to this letter, only observing that, by what I can discover of the prevailing disposition of this government, the principles therein contained are gaining ground, and will probably one day be enacted. (1)

Although it would have been desirable that France, or some other first rate Power in Europe, should take the lead in establishing doctrines which tend to so great a change in the maritime law of nations, yet the position of the American government is such, that it is not necessitated to wait the decision of any foreign Power, before pronouncing its own. For of all subjects touching the law of nations, it is that on which it is the most easy to discern what is right; and of all governments in the world, that of the United States is the best able to carry into effect its own decisions on that subject. You have only to mark out the ground which is

(1). It would facilitate the intelligence of what follows, to read the appendix before proceeding with the letter.

just; and that ground is tenable by you. Referring then to the Appendix for what I have to observe on the nature of the rights to be defended, I will close this letter by suggesting the most eligible means by which you may defend them.

Had the French Republic adopted the projected declaration, I intended, in consequence of the invitation held out in the seventh article, to put into some channel of consideration a proposition to the following effect:

“There shall be a treaty, called *the Maritime Convention*, formed by and between as many Powers as may choose to be parties to it in the first instance; and it shall be afterwards acceded to indefinitely by such other Powers as may at any time think proper to subscribe to its conditions,

“The object of this Convention is: 1, To define and declare the rights of neutral commerce; which shall be done in the instrument itself: 2, A general and mutual guarantee of those rights, among the parties, by the operation of commerce alone; without resorting to an armed force by land or sea, in any case provided for in this Convention. But if such resort should hereafter be found necessary, it may be authorised and regulated by a subsequent treaty, which shall be regarded as supplementary to this, and predicated on the practical insufficiency of the penalties herein prescribed. These I presume, however, for the reasons I am going to explain, will always be found sufficient; and in such case it would doubtless be more detrimental than beneficial to provide for any armament at all.

“To effectuate this mutual guarantee among the parties, there shall be established a *Chancery* of the Maritime Convention, composed of one delegate from each contracting Power, to assemble at some convenient place, not within the limits of any of the great maritime nations, but if possible in one

of the Hanseatic towns. The Chancery shall be always in session in time of war; that is to say, when one or more of the contracting parties, or any other maritime Power of Europe shall be at war. When no such war exists, the Chancery shall name, out of its own body, a committee of vacation; which shall remain permanent during the time of peace. The nomination of the committee of vacation shall be notified to the several contracting parties; its powers shall be the same in peace as those of the whole Chancery in war; and it shall have moreover the power of convoking the other members on extraordinary occasions.

“If the rights of neutral commerce, as declared by this convention, shall be violated in the property of any one of the contracting parties, or in that of their citizens or subjects, by the order or by the citizens or subjects of any other of the contracting parties, or by those of any other Power not a party to this convention, complaint thereof shall be made within a reasonable time by the Power offended, both to the Chancery and of the Maritime Convention, and to the offending Power, accompanied always with such proofs as the nature of the case will reasonably admit. The Chancery shall decide on the first view of the case, and without citing either party, whether the complaint is well founded or not; and, if well founded, it shall immediately decree the sum of damages in money which it shall find to be just, and shall notify the same to the offending Power,

“If within three months after notification made to the offending Power, it being in Europe, or in six months, it being in America, the full sum decreed in damages is not paid into the hands of the Chancery, then the offending Power shall be declared by the Chancery to be under *the Ban of Commerce*, until full payment shall be made, not

only of the sum already decreed in favor of the complainant, but of the other sums forfeited to the other contracting parties by this neglect, and payable as compensations, as explained below.

“The effect of the Ban of Commerce declared by the Chancery shall be, that every Power, being a party to the Maritime Convention, shall withdraw all commercial intercourse from the bandicted Power, its citizens or subjects, until the Ban shall be removed by the declaration of the Chancery. Which removal of the Ban, shall be made immediately on payment being received of the several sums before mentioned.

“By withdrawing all commercial intercourse, in the sense of this Convention, is understood prohibiting the vessels of the bandicted Power, and those of its citizens or subjects, or any goods, wares or merchandize of the produce or manufacture of their country or dominions, to enter the ports or country of the party withdrawing such intercourse; and likewise prohibiting its own citizens or subjects from frequenting the ports or places of the bandicted Power, refusing to clear any vessel, whether national or foreign, for any such port or place, and laying them under bonds not to frequent them during any voyage for which a clearance may be granted. But the obligation to withdraw commercial intercourse shall not necessarily extend to recalling ambassadors, other public agents or consuls.

“In cases where payment is compelled by resorting to the Ban of Commerce, the offending Power shall be held to pay to the Chancery for each contracting party which shall have concurred in executing the Ban (as a compensation for damages done their commerce in executing the same) a sum equal to the sum decreed in favor of the of-

tending Power. A new decree to this effect shall go forth with the declaration of the Ban of Commerce; and the same Ban shall be continued till these several sums, together with the one first decreed, shall be acquitted.

“But although, for the sake of expediting the operations of the mutual guarantee contemplated in this Convention, it is ordered that the Chancery shall pronounce immediately on the *ex parte* hearing of the first complaint, and shall suffer no delay in executing its decree, yet it is provided that the sum paid on such decree for the complainant, if paid without resorting to the Ban of Commerce, shall remain in the hands of the Chancery for six months, to wait a reclamation and a rehearing of the cause; which shall always be had by the party paying, if demanded within six months after voluntary payment. And on this trial both parties shall be invited to appear. But in no case shall final judgement be delayed more than one year after such payment. From this final judgement of the Chancery there shall be no appeal; and the money shall be paid over without delay to the party having right. Sums paid for the other contracting parties, as compensations for executing the Ban, shall never remain in the Chancery, but shall be paid over to them without delay, and cannot be reclaimed.

“When the Chancery, on the final hearing, shall reverse its first judgment, and restore the money to the reclaimant, it may likewise decree an additional sum in damages against the first complainant, as a fine imposed on him, if there be cause; that is to say, if his complaint shall finally appear to have been ill-founded, and brought with a fraudulent design. The sum of damages so decreed shall in no case exceed the amount of the first decree; it shall be notified in the same manner, a like term shall be allowed for payment, and

the same mode of compulsion, by declaring the Ban of Commerce, as before prescribed. On final payment to the Chancery, the sum shall be paid over without delay to the party having right. And in cases where payment of damages shall be compelled, by resorting to the Ban of Commerce, an equal sum shall be paid to each of the Powers executing the same, as in cases of first decrees. But there is no rehearing of a cause where payment on the first decree has been compelled by the Ban of Commerce.

“The penalty and mode of compulsion here proposed, for a breach of the Maritime Convention, appear to me abundantly sufficient for the object, whether of prevention or atonement: 1, because they are of a nature similar to the offence,---a commercial deprivation for a commercial violence: 2, because those maritime Powers, which are most likely to commit these aggressions, are the most dependent on that extensive intercourse and exchange of commodities, of which the Ban of Commerce would be a sudden and almost insupportable suspension: indeed most of our nations have now become so commercial, that no greater evil could be inflicted on them by their neighbours, than what is here contemplated, provided this Convention becomes as general as may be expected: 3, because the great objection to the Armed Neutrality of the year 1780, and what would always prevent such a plan from being carried into effect on a scale sufficiently great to produce any permanent amelioration, was the unwieldiness of the compulsory measures necessary to command respect. To seek redress in all cases by arms, and to have its success depend on contingencies to be furnished in naval armaments by a number of independent Powers, is a mode so expensive, so uncertain, and so unmanageable, that it never can be relied upon;

and if it could, the remedy might be worse than the disease; as it might involve in war the Powers which armed for the sake of peace.

“ A like objection would have arisen to the project of Henry IV. for pacifying Europe by land. The mode of compulsion would have been unmanageable, and probably dangerous to the nations it was meant to protect. The mode of compulsion in the plan of *unarmed neutrality* here projected, is simple, analogous to the object, easy and unexpensive in its execution, and exceedingly pungent in its effect.

“ A sincere desire in the contracting parties to preserve the peace of Europe. against all the other pretexts on which it is usually violated, may possibly induce them to extend the powers of the chancery in question, to all other branches of the rights of nations, as well as to those relating to commerce. In that case they will doubtless agree upon and declare a new code of public law, or *Law of Nations*, complete in all its parts; and commit the conservation of it to this body of delegates.

“ I shall not pursue this branch of the subject at present, because it would require immense details. In an operation so new, it will be best to begin with that part whose simplicity and daily utility shall recommend it to the most prejudiced observers. And if once the Maritime Convention can be organized, its principle may be extended as it shall be found practicable. I will not however lose this occasion of making one remark; that the commercial mode of compulsion here suggested would probably be the most proper for all cases to which this chancery or any other arbiters of nations might apply their powers. In such high and delicate concerns much will depend on the mode of compulsion, as well as on the nature of the penalty. They should both be moderate; and, if possible,

let them be commercial, and not military. The commercial will go by weight and measure, and will always be kept within the intended bounds; the military will run wild, and excite passions of false glory, incompatible with the object we have in view."

Such is the basis of a project, which might have been offered to the consideration of the Maritime Powers, had the way been opened by some public manifestation of a desire to discover the best mode of preventing national disputes. I introduce it here in the form of an imperfect sketch; as this is not the channel, and as there exists at present no good occasion, to offer it in the form of a finished project.

But though these crude conceptions may be of some utility, in exciting future attention to a theory of so much importance, yet this is not the principal reason for my inserting them in this letter. I design them as introductory to what I have to say on the practical system which the United States may adopt for themselves without any further delay. Your situation does not require you, on this subject to stop short at theories, or to wait till you can persuade other powers to join you in reducing them to practice. But, on the contrary, by commencing the system for yourselves alone, you will convince them of its good effects, and leave them to join you at their leisure. It is probable indeed, that contrary to most other experiments, it would operate with more precision on a large scale than on a small one; yet the trial which you alone would be able to give it would doubtless be successful. If so, the example would spread, and your efforts might finally point out to Europe the great desideratum of good men, the means of establishing a perpetual peace. You would prove beyond contradiction that an *unarmed neutrality* is better than an armed one.

Your commerce, both active and passive, is uncommonly interesting to the principal maritime nations of Europe, as a great source of nourishment to their manufactures and their agriculture; and it likewise affords a considerable source of revenue to their governments. There is not one of those nations, to whom a sudden suspension of its intercourse with you would not be a very serious evil. We must acknowledge at the same time, that it would be an evil to you; but if your system is well combined, the event will probably never occur. It is only contemplated as an extreme case, a measure of resort; and if ever put in practice, it will be to avoid a much greater evil, that of war, or that of unresented oppression.

The state of your agriculture and population is such, compared with the extent of your territory, that the rate of interest will necessarily continue to be higher in the United States than in Europe for a great number of years; and consequently our citizens will continue to be indebted to those of the manufacturing nations in very large sums; probably not less than twenty or thirty millions of dollars will be the average of the general balance. To bring the whole subject into one view, and at the same time to save repetition, I am obliged to refer to what I noticed in my former letter on this head, and on that of our European stock-holders, or the public creditors of the United States.

These several circumstances offer the materials, out of which your system of defence may be easily formed. Every part of the operation appears to be completely in your power, and must continue to be so; for these advantages cannot fail you at least for half a century to come.

Your object is to remain at peace with all mankind, and to maintain a perfect neutrality whenever the powers of Europe are at war. You ought there-

fore to publish a solemn declaration of this intention, and likewise a clear definition and declaration of the rights of neutrality which you mean to enjoy. In the same declaratory act should be contained an explanation of the means by which you will seek relief and compensation for every violation of those rights; from every foreign power, whether in time of war or peace.

Your mode of compelling compensation might vary according to circumstances, there being several productive sources within your power, from which it may be drawn. You have the sequestration of private debts due from our citizens to the subjects of the offending power; you have the sequestration of such portions of your public debt as may be due the subjects of such power; and, in cases where these could not be found in sums sufficient to compensate the injury sustained (which is a thing scarcely possible) you have the suspension of all commercial intercourse with such power, till compensation shall be made. Which compensation, when you resort to this last mode of compelling, should be augmented in proportion to the probable inconveniencies that would result to yourselves from carrying it into effect.

I say it is scarcely possible that this last mode need ever be resorted to, not that we are at present indebted either publicly or privately to the subjects of every maritime power in sufficient sums to furnish the government with a certain resource; but I say it because we are sufficiently indebted to those among them who would be most likely to violate our rights, and because the return of peace and the customary run of confidence will soon obtain us sufficient credits with the others. The difference in the rate of interest will always warrant such a calculation; and we know that such was uniformly the fact before the present unprecedented

Sequestration of private debts:
of public
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funds.
suspension
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war. Besides, it ought to be observed, that most of the maritime powers are strongly interested in extending and maintaining the rights of neutral commerce; and would wish to aid our pacific mode of defence, rather than defeat its object by violating its principle.

It would not become me to go into the details necessary for the organization of the plan. My object is only to invite your attention to the measure by showing that there is a foundation on which it may be established. But, *what are the real and defensible rights of neutral commerce,—what shall be the manner of proving and notifying their violation to the offending power,—what the rule of estimating damages according to the different modes of compelling compensation,—what the constitution of the tribunal to be charged with receiving complaints, deciding on the first enquiry, and rehearing the cause in case of disputed facts,—and what shall be the penalty against a citizen for preferring a fraudulent complaint,* are questions which can only arise after the basis of the institution shall be found agreeable to your ideas of policy and justice.

I am not inattentive to certain objections which may be made against some parts of the system; neither am I confident of being able entirely to remove them. Those that should be raised against the principle of sequestering debts, are so fully answered in my former letter, that I have nothing new to add in this. But it will be said that a sudden suspension of our commercial intercourse with any one of the great maritime powers, would create such a shock in the affairs of our merchants, and in the receipts of duties destined to the public treasury, as greatly to affect our interest. To this it must be replied: 1, That generally speaking, in proportion to the amount of our commerce with any foreign power, is the amount of our debts to the

subjects of that power; and there is nearly the same proportion between the debts we owe its subjects and its ordinary and well known disposition to infringe the rights of neutrals, and tyrannize at sea. The minor powers, to whom we owe little, have also little of our commerce, and are at the same time little disposed to tyrannize at sea; because it is not their custom, being against their interest. These facts render it almost impossible that the case, to which the objection is raised, will ever happen with a great commercial nation, where the shock of suspension would be greatly felt by us. They also render it very improbable with a minor nation; and if it should happen there, the shock would be but small. But if we consider, that to any of these powers, whether great or small, the shock of a sudden suspension of our trade would be more sensible than it would be to us, and that they must always foresee this effect, from the moment of the declaration of our mode of defence, we shall be still more convinced that the event will never happen.

2. Though the evil attending this extreme case, if it should occur, would be considerable, it must not be forgotten, that a much greater one is avoided by it; --- the evil of being humbled under every species of maritime insult, and of becoming the foot-ball of rival powers who strive which shall kick us the hardest,--- or else that other evil (whether greater or less than this) of a war; in which there is no calculating the calamities to a young republic, in fiscal derangements, commercial distresses, or loss of domestic liberty.

During the present state of hostility in which Europe is involved, iniquitous and piratical as it is, there is no doubt, had we been prepared with a system of neutrality and defence like what is here

proposed, but it would have carried us through without an insult, or none that would not have been atoned without delay. Neglecting this precaution, how many millions have we suffered in property? what humiliation in character? And who can tell, after seven years plunder, whether we are not to be dragged into the war at last, or which side we are most likely to take?

My great anxiety to serve the cause of liberty, and accelerate the progress of civilization, has alone induced me to address you these letters. I can have little hope however that my arguments will produce any immediate effect in exciting your attention to theories so abstracted from the great passions of the day. But principles remain, when the books that first contained them are forgotten; and I have so much confidence in those I here advance, as to believe that they will descend to some future friend of humanity, who will find a more fortunate moment for their reception, and place them before the world in a clearer point of light. The prospect of thus contributing to a distant good, has made me write with pleasure; and it ought to engage you to read with patience.

JOEL BARLOW.

(83.)
APPENDIX.

MEMOIR

ON

CERTAIN PRINCIPLES

OF

PUBLIC MARITIME LAW:

WRITTEN FOR THE

FRENCH GOVERNMENT.

PARIS, 5 Dec. 1799.

THE several constitutions which the French nation has hitherto given herself, have been pre-faced by a declaration of the Rights of Man. It might not be improper that the present one should carry with it a declaration of the *Rights of nations*; I mean some of those great principles which would tend to the preservation of tranquillity in Europe, and which would favor a state of peace rather than a state of war.

A proper understanding of the Rights of Man is doubtless leading to great ameliorations in his civil state, and will throw much light on the science of interior legislation, of which you may hope to profit as soon as you shall have passed the vicissitudes of the revolution. A proper understanding of the Rights of Nations, will perhaps enable you to avoid as many errors and as great evils in your exterior concerns; and it ought likewise to be regarded as one of the great objects of the same revolution.

It is probable that your new constitution will hasten the epoch of a general peace. This peace will have been so dearly bought, that you must wish to render it as permanent as possible; and you will doubtless be willing to adopt the means most proper to attain the end. You ought at this moment to ask yourselves, What are the most usual causes of war in the present state of Europe, and how are these causes to be avoided in future?

Is there not something vicious in the present organization of the great society of nations, relative to each other, especially in what is called the Maritime Law of Nations, as now understood in Europe? Many articles in this maritime code are evidently calculated to favor a state of war, and to throw advantages into the hands of belligerent powers, to the prejudice of neutrals. This of itself is one inducement to war; and if it can be proved, that some of these articles might be amended, is it hoped that no time will be lost in adopting such amendments.

Privateering ought to be forbidden. The whole system of privateering, and Letters of marque and reprisal, ought to be forever abolished. It is easy to demonstrate the evils that arise from this system, both in its general principle as it affects the state of society in Europe, and as it applies to the interest of the French nation in particular. It is one inducement for vicious individuals, in all maritime countries, to wish for a state of war. Men of broken fortunes in the seaports, such as captains of vessels, and other sailors, whose irregular conduct prevents their obtaining employment in regular business and peaceable times,--secretaries of state ministers, and chiefs of departments, who expect large gratifications for the commissions they obtain--and other classes of men too various and too vile to be specified in this place, all promise themselves great profits from a loose piratical warfare; and

never fail to do all in their power to bring on hostilities, by irritating the parties at home and abroad.

When their system of sea robbery is once licensed by a declaration of war, all bounds of morality, and every tie of civil society are broken, with these classes of men. All means are lawful by which they can seize the property of others, whether friends or foes, neutrals, allies, or fellow-citizens. Every species of plunder, homicide, fraud and cruelty, that human ingenuity can invent, are practised without disguise; as they are sure to go unpunished by their own or any other government.

Vast quantities of property belonging to neutrals, being unjustly taken and destroyed, are clearly lost to all parties, and must be paid for by the government that allows such devastation; unless it avoids the payment by provoking such neutrals to take part in the war, and thus extend its ravages beyond the original intention of the parties.

But this is not all. This terrible sacrifice of morals gains other classes of society. The regular merchant leaves his accustomed business, and launches into the most extravagant speculations; founded on the cruelties and murders of an occupation which he has not the courage to exercise himself; though he renders himself equally guilty, by hiring others to do it for him. The contagion of unusual cupidity extends to every sort of people in the commercial towns. Sea robbery becomes the fashion of the country; manufactures are deserted for a more seducing prospect of gain; and all the sea coast of every country at war, presents the afflicting prospect of society relapsing into a state of barbarity and piracy, worse than the savage state from which our arts and sciences have drawn us.

Such are the general effects of privateering as observed in all European nations. But France

has a peculiar interest in prohibiting this vile and degrading warfare. It never fails to deprive her of her seamen, and to cripple her national marine, in a greater degree than it does her rivals the English. The reason of this is obvious. France is an agricultural nation, rather than a commercial one. Her commerce is so little, in proportion to her military navy, that it is with great difficulty she can man her national ships in case of need. She is obliged therefore to take landmen to supply the deficiency ; and she endeavours to balance the want of skill, by an augmentation of numbers. For this reason, the crew of a French ship is vastly more numerous than that of an English ; they fight to less advantage, and lose many more prisoners. This is peculiarly the case with your privateers. Hence it is that your privateers in the present war, have done little more than people the English prisons with the best of your seamen. Indeed the maritime part of the present war, offers a variety of the most terrible examples of the fatal consequences of the system of privateering, in every light in which the subject can be placed.

Therefore, as there can be no possible benefit arising from the system, either in this or any other war,--as your whole naval force can always be displayed to the best advantage in national ships, and under the sole guidance of the supreme executive power,--as you will thus take away one of the inducements which bad men have to provoke hostilities and bring on a war,---as you will thus avoid doing injustice to neutrals abroad, restrain the violence of wicked men at home, and shut up a school of immorality which threatens destruction to the whole system of human society, it is to be hoped that privateering will be hereafter forever prohibited in France.

(87.)

(55)

Neutral flag

2. Another branch of the maritime law of Europe, which ought to undergo a serious consideration, at this time, is that which regards the rights of neutrality; especially in some contested points which are susceptible of a clear definition and a solemn declaration. The question whether the flag of a friend shall protect the cargo of an enemy, has been agitated in Europe for a century and a half, without being finally settled at this day. The practice of the Romans was in favor of the negative; and that was sufficient for a long time after the revival of commerce to settle the practice in the early part of modern times. But the inconvenience of this was found to be so great to neutrals, without procuring any solid advantage to belligerents, that the contrary practice began to be recommended about the middle of the last century. It was found to be so much more convenient for all parties to allow the flag to protect the property, that the number of treaties in which the modern practice is adopted is almost as numerous, within the period above mentioned, as of those in which the ancient usage is maintained. The following is the list of treaties in which it is stipulated that the flag shall protect the cargo, in all cases except in contraband of war:

Between France and	{	Holland,	In
		Hanse-Towns,	1646
		England,	1655
		Spain,	1655
		Holland,	1659
		Idem.	1662
		Idem.	1678
		Idem.	1697
		Idem.	1713
		Idem.	1739
		Denmark,	1662
		Idem.	1742
		Sweden,	1672
		England,	1677
		Idem.	1713

39. treaties of that Sort from 1646 - to 1785.

		In
	{ Portugal,	1654
	{ Sweden,	1656
	{ Spain,	1667
Between England	{ Idem.	1670
and	{ Idem.	1713
	{ Holland,	1668
	{ Idem.	1674
		In
	{ Portugal,	1661
	{ Sweden,	1667
Between Holland	{ Idem.	1675
and	{ Idem.	1679
	{ Naples.	1752
		In
Between Spain	{ Austria,	1725
and	{ Denmark,	1742
		In
Between Denmark	{ Genoa,	1756
and	{ Naples,	1749
		In
Between Russia	{ Holland,	
and	{ Prussia,	
(Armed neutrality.)	{ Sweden,	1780
	{ Denmark,	
	{ Naples.	
		In
Between the	{ France,	1778
United States	{ Holland,	1780
and	{ Prussia,	1785
	{ Sweden,	1785

39.

To this list may be added all the treaties that have been made by the Powers of Europe with the Ottoman Empire, and with the several States of Barbary, as well as those between America and the States of Barbary; it being an invariable prin-

ciple among those Mahomedan Powers to respect the flag of a friend and all the property it covers (1).

It will be remarked that England has been the principal opposer of this modern law, since the accession of the house of Hanover. During the last century and in the beginning of the present, her name is found in many treaties which recognize the new principle; and it is probably owing to her opposition to the general wishes of Europe during this century, that this advantage in favor of neutral commerce is not universally adopted at this day. I find no instance since the year 1713, in which she has acknowledged it; and she has made such a considerable figure in naval wars and the tyranny of the seas, since that period, as to cause other nations to vary in their policy continually; sometimes forgetting their true interest, and yielding to her ambition in supporting the Roman practice, and sometimes recurring to the more rational system, which they ought never to abandon.

But it is time that this question should settled irrevocably; and France at the moment of her regene-

(1). This is not the only point in which the States of Barbary have adopted principles of public law more rational, and approaching nearer to civilization than those of Europe.

They admit no such thing as CONTRABAND OF WAR; but allow a neutral vessel to carry any article, at any time and to any place, without examination.

They make no maritime war without a public declaration; and do not allow hostilities to commence till a certain number of days after the war is declared; thirty days when the party is bordering on the Mediterranean; a longer term, if at a greater distance. The number of days is fixed in the declaration.

All the vessels, subjects and property of the party, then within their jurisdiction, or that arrive during this interval, are sent away with passports; and not suffered to be molested in their homeward voyage, though met at sea after hostilities are begun.

Some of these principles may be sometimes violated by a passionate prince; but they are acknowledged as law, and are generally observed with the most scrupulous honesty.

Since 1713, G.B. has not acknowledged this principle.

ration is in a condition, if not to dictate the principle, as immediately binding on other nations, at least to adopt it for herself as an inviolable maxim, and to recommend it by her great example. A sense of interest will induce all other nations to recognize it immediately, except the English. And if the English should continue to oppose a measure so just, so convenient, and so interesting to every maritime power, it will attack those powers on all future occasions to the interest of France, as their common benefactor, and oppose them to England as their common oppressor.

No nation can be more interested in the adoption of this measure than the French. Your resources in agriculture and manufactures are immense. The encouragement of your industry and the increase of your wealth depend on a free exchange. As long as you have such an insatiable rival as the English government in its present form, you can hardly expect to avoid naval wars, however sincere may be your wishes to avoid them. Your object then is to establish such liberal principles with respect to neutral commerce, that your agricultural and manufacturing interests may suffer as little as possible, from a naval war which may obstruct your own navigation.

England has such a prodigious mercantile marine, that she has little use for neutrals as carriers of her commerce. But if you allow neutrals to be her carriers it would tend to weaken her marine; as it would lessen the number of seamen in her service. English seamen would get into neutral employ for the sake of higher wages, which neutrals could then afford to give; and such seamen would rarely return to their country. Whereas allowing neutrals to carry for the French would nourish their agriculture and manufactures, the great resources of the nation.

This principle peculiarly favorable to France.

It seems therefore necessary, that France should not only recognize the principle in all her future treaties, that the flag shall protect the cargo, but that such should be declared by the people at the head of the constitution, in order that all nations may see that a future legislative or executive cannot deviate from it.

Ought to be no Contra-

band.

3. There is another case in the rights of neutrality which deserves to be examined; in which I shall endeavour to establish a doctrine that will appear new, but I hope it will likewise appear just. It is this, *that there ought to be no contraband of war.* If, for fiscal or other purposes, a government chooses to prohibit the importation or exportation of certain articles, these may be contraband with respect to its own nation. But this is private contraband, and has nothing to do with public maritime law, *Contraband of war* supposes an abridgement of neutral right in favor of belligerent force; which is immoral and absurd. No principle is more clear in itself, or laid down with more precision by Wolff and his followers, on the law of nations, than this: *that a nation, remaining neuter while her neighbours are at war, retains all the rights which she possessed before the war began.* If this be true, there is nothing more contradictory than to say, that certain articles which were lawful for that nation to carry to a certain country in time of peace, are not lawful in time of war. If the right existed before the war, it cannot be annihilated by any act of the belligerent powers; and for them to abridge the exercise of it, is a violation of justice and an act of hostility towards the neutral nation, which affects not only her navigation and commerce, but likewise her manufactures and her agriculture. If the Russian has been in the habit of carrying cordage to the French in time of peace, and the American has been in the habit of carry-

Wolff.

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ing them tobacco; and afterwards the English begin a war with the French; then according to the present rules of contraband, the English will say to the Russian, you shall no longer carry them your cordage, while they will say to the American, you may continue to carry them your tobacco. But why shall the Russian cultivator of hemp be deprived of the fruits of his labor and the rights of his neutrality, any more than the American cultivator of tobacco? The reason given by the publicists for this distinction is by no means satisfactory. They alledge the plea of necessity, which they say one belligerent power is under, to distress its enemy by depriving him of the articles used in war. This argument of necessity is misapplied, and may be answered by a stronger necessity on the other side. There is a more legitimate necessity that the inhabitants of a neutral country should live, and to this end be protected in their industry, than there is that one nation at war should destroy another. If there is, among all the elements of society, one principle more sacred than others, it is this, that more protection is due to the honest pursuits of industry, which tend to multiply the supports of human life, than to the violent operations of war which tend to its destruction.

It ought then to be recognised as a principle of public maritime law, that no neutral nation shall be interrupted in the course of its accustomed navigation and commerce, on account of the nature of the articles it carries to market; or in other words, there ought to be no such thing as contraband of war.

Obj. One objection, however, may be made to this doctrine, which it is incumbent on me to answer.
r^t a It may be said that to allow a neutral to carry war-like stores to my enemy, I leave him not only the
New same advantages which he had before the war, but
=tral would have his Advantages increased,
were it not for Contraband.

I allow him to encrease those advantages; since ~~injur-~~
 my enemy has need of a greater quantity of those
 articles in war than in peace. To this it is replied ~~ed in~~
 that the neutral has not to thank me for the benefit; ~~other~~
 since it is not with a view to his good that I under-
 take the war, but for my own interest or passions. ~~matter;~~

Under the most scrupulous attention to the rules
 of justice on my part, it is impossible but that
 neutrals must suffer in many respects from my war. ~~be~~
 If my enemy increases his demand for one article, ~~bal-~~
 he probably lessens it for another. And I believe ~~cap-~~
 there is no instance of a war in which neutrals have ~~ced,~~
 not suffered immense inconveniencies. We see
 them always rejoicing at the return of peace, almost
 as much as the belligerents.

There will doubtless be some articles in which
 the neutral will find a benefit from my being at
 war; but as there are necessarily others in which
 he finds a detriment, I have no right to abridge his
 enjoyment of the first, since I do not lessen his suf-
 fering in the last. And he has as good a right to
 supply the extraordinary market that may offer it-
 self to the fruits of his labor, when such extraordi-
 nary market is occasioned by war, as if it were oc-
 casioned by famine.

There are some examples of incidental encour-
 agement to the industry of neutrals, which are
 offered them by the temporary concession of a
 belligerent; such as taking off restrictions and pro-
 hibitions which have been customary in time of
 peace. The English in every war, and frequently
 in their intervals of peace, have suspended the ri-
 gors of their *navigation act*, for the sake of obtain-
 ing supplies of provisions, either at home or in their
 foreign possessions. The French and Spanish go-
 vernments sometimes open the ports of their colo-
 nies to the ships and produce of other powers, and
 give an unusual latitude to some branch of com-

merce of which they stand in need. These occurrences create a higher market, and offer a temporary benefit to nations which are able to carry the supplies. And when they happen in time of war, they may throw a momentary advantage into the hands of neutrals. They must therefore be classed among the incidental rights of neutrality, of which no belligerent can with justice complain.

The English government, it is true, has denied this doctrine; and one of the members of that government, the Earl of Liverpool, has written a book to prove that the commerce of neutrals cannot legally be extended, in time of war, either to any ports or places, or to any articles of merchandize, to which it was not accustomed to go in time of peace. But this position is so false in itself, and advanced with such an evident design to apologize for a part of a general system of tyranny over neutrals, which that government has been pursuing for a number of years, that no writer, I believe, has yet thought it worth refuting. It is of kin to that other novel maxim of British invention, that whole kingdoms may be blockaded by a proclamation.

But when the benefits of trade are extended in this manner, pretended to be unlawful, which party is it that does the wrong,--- the belligerent that offers, or the neutral that accepts, the extension?

No English writer, I presume, will deny that the belligerent power has a right to open its own ports to any unusual branch of commerce; since his own government does it very often, no less than three times during the present war.* It must be then, according to lord Liverpool, that the neutral is in fault; and that he has no right to go to the best market, and if that best market was England, he would certainly be taxed, and very justly, with

* A fourth instance in the close of the year 1800.

E. of Liverpool - That Neutrals can't extend their trade to new places or articles of merchandize, in time of war. False Doctrine.

partiality to her enemy. When so much of the British navigation act is suspended (this is the case at the moment I write) as to allow a Swedish vessel, for example, to carry American flour to England, suppose such a vessel should be loaded in Philadelphia for London, and the custom-house should refuse her a clearance for that place, where the market was high and a famine was apprehended, but should clear her for France, where there was great abundance and a low price, and should lay the vessel under bonds not to go into England (which would be the duty of the custom-house, if it was a crime to go there) would not this be called an act of partiality, an act of such enmity to England as would amount to a breach of neutrality? But all this would follow from the principle laid down by lord Liverpool.

The English themselves, however, have never acted on this principle, in all its parts, nor ever will. It is thrown out to intimidate neutrals. But it is time that the rule of justice were settled on this subject as on many others. The rule ought to be this: that nations which remain neuter, and observe an impartial conduct while their neighbours are at war, retain all the rights which they possessed in time of peace, and all the additional and temporary advantages which the nature of the war itself may throw into their hands, or that may be conceded by any of the belligerent powers;— that is to say, complete and universal liberty should be left to neutrals to be the carriers of all sorts of goods, at all times and to all places, except only to places actually besieged or blockaded. And to determine what shall be understood by a place blockaded, the strictest sense of the phrases used by the Armed Neutrality in the year 1780 should be adopted; that is, when a place is so invested as that no vessel can pass into the port with-

which contradicts wolf's principle; p. 59.

Barlow, however, allows of Contraband as to a place actually blockaded.

out imminent danger of being stopped by the investing force. But in no case can a whole coast be said to be blockaded by a fleet cruizing in such manner as occasionally to stop a neutral vessel ; a blockade in its nature being only applicable, if not to a single port alone, at most to such ports whose passage is absolutely impeded by the habitual disposition of the ships. And even in this case a neutral vessel ought not to be confiscated till she shall have been once stopped and sent away, and shall attempt to enter a second time.

To recognize these great principles, in such a manner that they may serve as a guide to future legislators in the French Republic, be adopted by other nations, and become a part of the Public Maritime Law through all the civilized world, I would preface the new constitution with a declaration to the following effect.

A R T I C L E I.

The French Republic will be and remain at peace with all people and at all times, so long as peace can be maintained by the strictest observance, on her part, of justice and the Rights of Nations.

II.

The Rights of Nations are, anterior government and self control ; the faculty of continuing their actual forms of government, or changing them for others ; the faculty of remaining neuter, and observing an impartial conduct towards neighbouring nations while they may be at war.

III.

The Rights of Neutrality are, the faculty of making or not making a public declaration of neu-

hostility;) the faculty of navigating all seas, trading to all places, carrying all articles without any exception of contraband of war, and for all persons without any distinction of belligerent or neutral; the faculty in general of enjoying all the advantages possessed in time of peace, with the addition of such other advantages as may arise from the nature of the war itself, and also such as may be granted and consented to by one or more of the parties in the war; excepting only the case of a blockaded port or place.

IV.

A port or place shall be deemed blockaded, only when the investing force is actually and habitually so disposed, and stationed as that a vessel cannot enter without imminent danger of being stopped. And even then, confiscation of a neutral vessel, or of her cargo, shall not be made, till she shall have been once stopped and sent away, and shall return a second time.

V.

The neutrality of a vessel, such as shall enable her to protect her cargo and passengers, of whatever nature or country, shall be proved without unreasonable formalities. The nature and form of the documents required for this proof, shall be only such as shall have been declared to be sufficient by the neutral power in her own laws, or stipulated by her in treaties with other nations,

VI.

The French Republic, convinced of the inconveniencies and immoralities which arise from the system of privateering, will no more grant com-

missions for cruising, or letters of marque and reprisal, to any private ship.

VII.

Solicitous to avoid and remove every occasion of war, not only by a steady pursuit of justice towards every government and people, but also by adopting some rational system of explanation, of real or supposed wrongs, which she and other independent powers may impute to each other in their various intercourse, the French Republic invites them all, to turn their attention to the discovery of some pacific mode of public arbitration; in which national grievances may be discussed, removed, atoned, compensated, and finally settled, without recurring to the right of the strongest, as in barbarous and uncivilized ages. And she declares solemnly to all mankind, with whom she desires to live in peace, that she will do all in her power to investigate the means and arrive at the establishment of such a beneficent institution.

TO CITIZEN_____

MEMBER OF THE FRENCH GOVERNMENT.

Paris, 12th Feb. 1793,

CITIZEN,

THE enlightened policy which has ever animated your conduct towards the United States, and particularly the kind reception you gave to that estimable patriot, Doctor Logan, which has been followed by the most happy effects, induce us to address to you some reflections on the intelligence lately received from that country. We shall even take the liberty of exposing to you our opinion relative to the best mode of silencing the enemies of France in America, extending and invigorating republican principles, reviving the commercial relations which are so essential to the interests of the two republics, especially to the French colonies, and displaying the magnanimity of the French Government beyond the reach of calumny in either hemisphere. Whether our particular sentiments, as to the time and place of negotiating, should meet your approbation or not, you will certainly be assured, that they are dictated by the purest affection for both countries, and the most ardent desire to promote the benefits of those principles on which you wish to see all societies founded.

You will have remarked in the discourse of the President, at the opening of Congress, a degree of moderation which is an index of a national abhorrence to a rupture with the French Republic, and of an unequivocal desire in the people for a reconciliation; notwithstanding the immensity of their losses by French captures; amounting, according to the best estimates that we have seen, to about *seventeen millions of dollars.*

We flatter ourselves that we have contributed not a little to produce these returning sentiments in America, by the repeated assurances that we have given, as our opinion, that the unbounded licence of privateering would soon be restrained; and that certain laws, in which this licence took its origin, would be repealed or modified. The late message of the Executive on that subject, which we immediately dispatched, and the future arrival of legislative measures, which will doubtless be taken in conformity thereto, and which we hope soon to have it in our power to forward, would most certainly decide the President to send another embassy to Paris. But permit us to notice to you some circumstances which will show that this would be a tedious operation; and that the interests of both countries require that it should, if possible, be abridged.

The Congress must rise, on or before the 4th of March, (twenty days from this) as the biennial functions of all the house of representatives, and one third of the senate, cease on that day. Should the President therefore be disposed to name a minister, he cannot do it after that day, without calling a special meeting of the senate; which delay would necessarily throw that operation into the summer; and such minister could not arrive in Paris till next autumn or winter.

France, seated on the car of victory, is surrounded with too much glory, to fear that an act of condescension should be misinterpreted, or ascribed to any other cause than her own magnanimity. You would abridge the sufferings of your colonies, revive the manufactures, commerce, and agriculture of many parts of France, give a new triumph to republican principles, and make a better treaty than could be made under other circumstances, if you would send a minister immediately to Philadelphia.

Excuse our zeal, Citizen, and since that we have ventured so far, on a subject which concerns us no otherwise than as individuals in the community of both countries, indulge us in one observation, relative to such treaties in general, so far as they respect commerce and privateering. Your commerce with every friendly nation ought, in our opinion, to be as free as possible, consistent with the object of revenue. And as to privateering, there is no doubt in our minds that, had it been totally prohibited in France, during the present war, and the flags of all neutrals perfectly respected, the Republic would have been richer at this moment by three (*) millions; and England would have been in that proportion poorer. Allowing neutrals to be the carriers of the English commerce, is to lessen its profits to the nation by the amount of the freight, and to weaken her marine by encouraging foreign sailors, instead of her own; while allowing neutrals to carry for France, especially at a time when she cannot carry for herself, is to nourish her agriculture and manufactures, the two great sources of her wealth.

If we dared to give a suggestion on an object still more delicate, we would hazard our opinion relative to the qualities of the person whom you

* Say 120 millions pounds sterling, or 540 millions of dollars.

may charge with this mission to Philadelphia. We should invite you to choose a citizen whose name and character are known and respected in America; who by his writings may have merited the esteem of the two countries; a citizen, if possible, who may have some acquaintance with our excellent philosopher and patriot, Jefferson; and whose known moderation, integrity, and wisdom, shall at the same time prevent his being disagreeable to the opposite party; a citizen whose enlightened love of liberty, in its most extensive effects, shall render him proper for a negotiation which may become the source of the most extensive prosperity.

The treaty which will result from the negotiation in question, is an object of the highest expectation; as it ought to establish the basis of a new system of national intercourse, or Law of nations; which doubtless ought to be as different from the old, as the genius of a free republic is different from that of monarchy. As there can be but little doubt, that most of the monarchical governments in Europe will soon be overturned, and give place to that general republican system which the nature of things and the strong current of events render necessary, it becomes the duty of the two greatest republics on earth to set the example, and lay the foundation, of an enlightened and fraternal policy, which shall embrace all nations, as fast as they become free, and exclude the occasion of future wars.

(Signed) FULWAR SKIPWITH.

JOEL BARLOW.

(103)

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